

REMARKS**I. Claim Status**

Upon entry of this amendment, claims 1 and 93-98 are pending in the application. Claim 1 has been amended. Claim 92 has been canceled herein. Claims 2 to 91 were previously canceled.

In order to expedite prosecution of the application and advance the case toward allowance, claim 1 has been amended to incorporate the limitations of claim 92. As no new matter has been added by this amendment, entry of the amendment is respectfully requested.

Cancellation of the claims is made without prejudice, without intent to abandon any originally claimed subject matter, and without intent to acquiesce in any rejection of record. Applicants expressly reserve the right to file one or more continuing applications hereof containing the subject matter of the canceled claims.

II. Claim Rejections Under 35 USC § 102(e)

Claims 1, 93, and 97 have been rejected under 35 U.S.C. 102(e) as being allegedly anticipated by Moore et al (U.S. Patent Application Publication 2001/0021700). This rejection is repeated for reasons already of record (e.g., Office action mailed October 18, 2008, page 2). The Office asserts that Applicants' arguments (response filed April 3, 2009, pages 3-5) are not convincing because applicants argue only inherent characteristics of the genes expressed and the steps practiced in Moore et al and in the instant claims are the same.

To the extent the rejections apply to the amended claims, Applicants respectfully traverse the rejection and its supporting remarks. Anticipation requires that a single reference disclose each and every limitation of the claims. As amended, all of the pending claims now include the limitation that one or more genes comprise a nucleotide sequence of SEQ ID NO: 52. Moore et al. fails to disclose this limitation and therefore fails to anticipate the pending claims. Withdrawal of the rejection is thus respectfully requested.

III. Objections to the Claims

Claims 92 and 94-96 have been objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants thank the Examiner for this acknowledgement. Applicants respectfully assert that due to the amendments to claim 1, claims 92 and 94-96 are now in allowable form.

IV. Conclusion

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue. If it is determined that a telephone conference would expedite the prosecution of this application, the Examiner is invited to telephone the undersigned at the number given below.

In the event the U.S. Patent and Trademark office determines that an extension and/or other relief is required, applicant petitions for any required relief including extensions of time and authorizes the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to Deposit Account No. **03-1952** referencing docket no. **506612000104**. However, the Commissioner is not authorized to charge the cost of the issue fee to the Deposit Account.

Dated: October 8, 2009

Respectfully submitted,

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